IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

MFA.No. 277 of 1995(B)

OPMV.1138/1992 of MOTOR ACCIDENTS CLAIMS TRIBUNAL, MAVELIKKARA dt.29.6.1993.

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APPELLANTS: CLAIMANTS
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1. **LEKSHMI AMMA, GEETHA SADANAM THITTAMMEL, CHENGANNUR.**
2. **SASIKUMAR DO. DO. DO.**
3. **GEETHAKUMARI, DO. DO. NOW RESIDING AT PUTHUSSERI, VALICKAKOM VADACKAL P.O., ALLEPPEY-3.**

BY ADV. SRI.ASOK M.CHERIAN

RESPONDENTS: RESPONDENTS
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1. **JOHN THOMAS & TOM , SON OF JOHN, MURIKUMMOOTTIL, THITTAMMEL MURI, CHENGANNUR VILLAGE.**
2. **SUNNY V.T. MATHEWS, DANAMPADICAL JEWELLERS, A.C. 87, ANNA NAGARA, MADRAS 40, PRESENT ADDRESS :- DANAMPADICAL JEWELLERS, CHENGANNUR.**
3. **M.AYYADHURAI, SON OF MUTHAYYA NADAR, MILITARY LANE, HOUSE NO.4, PALAYAMCODE, THIRUNELVELI.**
4. **S.FELIX LAZAR, S/O.KAKATHU MALA NADAR, RAMAKRISHNAPURAM P.O., 6/43, THNAIGOORANI, NANGUNARI, TAMIL NADU.**
5. **THE NEW INDIA ASSURANCE COMPANY LIMITED, REP.BY ITS MANAGER, ALLEPPEY.**

BY ADV. SRI.LAL GEORGE - R5

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A. No.277 of 1995

Dated this the 29th day of May, 2007

Judgment

Koshy, J.

Appellants are the legal heirs of one Karthikeyan Nair who sustained fatal injuries in a motor accident. Appellants claimed compensation of Rs.Five lakhs. Tribunal held that total compensation payable is Rs.2,34,500/-. But, Rs.50,000/- was deducted from the above amount and only balance amount was awarded as the claimants received Rs.50,000/- under a personal accident policy. In M.F.A.No.351 of 1995 when an identical case was considered, this Court held that the tribunal cannot deduct Rs.50,000/= from the total compensation merely because the deceased had a personal accident policy of Rs.50,000/- and claimants received the same. Hence, deduction of the above amount is incorrect. We see no ground to interfere in the award under other heads at the request of the claimant. Therefore, claimants are entitled to the above amount of Rs.50,000/-. Fifth respondent insurance company is directed to deposit the above Rs.50,000/- with 8% interest from the date of

application till its deposit within two months from the date of receipt of a copy of this judgment. On deposit of the amount, appellants are entitled to withdraw the same in the same proportion as directed by the tribunal.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A. NO.277/95

JUDGMENT

Dated:29th May, 2007